Justice Henshaw's opinion is an admirable example of a court of equity looking beyond the corporate entity in its search for the real defendant who had disguised himself as a "one man corporation."

A doubt, however, may be expressed with reference to the "conceded fact," on which so many plaintiffs have been wrecked. Section 404 of the Civil Code apparently has not been referred to in any of the cases wherein it has been held that judgments against a dissolved corporation are void.[2] Yet it would seem that its bearing upon the question should at least have been discussed in some of the many cases which have established a principle, now a "conceded fact." That section declares that the "dissolution" of a corporation does not "take away or impair any remedy against any such corporation" for a previously incurred liability. This language certainly reads like a general saving clause in respect to all liabilities incurred before dissolution. The fact that it has not been cited or commented upon is little to be wondered at, for it was formerly found in an article of the Civil Code entitled "Examination of Corporations," and we have the word of the Code Commissioner that prior to 1905, "it was not in its proper place."[3] Whether its transportation from section 384 in the article on "Examination of Corporations" to section 404 in the article "General Provisions Affecting Corporations" has served to bring it to the light of day may be doubted.

O. K. M.

CRIMINAL LAW: NEW TRIAL: ERROR IN REPETITION OF PREJUDICIAL QUESTIONS.—So seldom now is a criminal case reversed by the California appellate courts that the mere granting of a new trial occasions surprise, a surprise which becomes a shock when the reversal is on grounds entirely insufficient. In *People of the State of California v. Terramorse*,[1] on a charge of grand larceny, the prosecuting attorney persisted in asking questions relating to defendant's expulsion from a lodge after the alleged larceny had been committed. In argument the prosecuting attorney also commented on defendant's refusal to allow defendant's wife to take the stand. In both instances the prosecuting officer erred. For these errors the case is reversed without the slightest consideration, in the opinion at any rate, as to whether the evidence disclosed that the defendant was really guilty, or that the errors complained of had resulted in a miscarriage of justice under Art. VI, §4½ of the Constitution of California. In the opinion of the

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[2] Crossman v. Vivienda Water Company (1907), 150 Cal. 575, 89 Pac. 335; Kaiser Land and Fruit Co. v. Curry (1909), 155 Cal. 638, 103 Pac. 341; Newhall v. Western Zinc Min. Co. (1912), 164 Cal. 380, 128 Pac. 1040.

[3] Commissioner's Note to Cal. Civ. Code, § 384.

[1] (April 13, 1916), 22 Cal. App. Dec. 699.

court it is said, "The only method which this court knows for preventing the spread of such abuses is that of compelling the retrial of causes in which they occur." If this pronouncement of the court is correct, a murderer caught redhanded, against whom the evidence is overwhelming, could get a new trial if the prosecuting officer persisted in asking improper questions. Granting a new trial to a defendant whom the jury, the trial judge and the appellate court itself all believe has been proved guilty, simply as a punishment to the prosecuting officer for violating the rules of evidence in trial practice, is precisely the exquisite absurdity the constitutional provision was designed to prevent. There are appropriate means to stop the spread of such abuses by prosecuting officers other than by the granting of a new trial. The trial court has the power to fine and imprison an attorney who persists in the repetition of objectionable questions. The occasional exercise of this power would do more to keep prosecuting attorneys within bounds than any other device. It is contrary to the dictates of common sense, and the express mandates of the constitution for the appellate courts to attempt to discipline prosecuting officers by the vicarious punishment of freeing a criminal unless the appellate court believes that the errors have resulted in a miscarriage of justice.

A. M. K.

EMINENT DOMAIN: RIGHT OF CONTINGENT REMAINDERMAN TO COMPENSATION.—A remainderman whose interest is vested has the unquestioned right to compensation for damages done to his interest in the freehold by taking of the land in eminent domain proceedings.[1] Whether or not one whose interest is merely a contingent one will be afforded similar protection is a question which has seldom been passed on by the courts. Recently, by way of dictum, the Supreme Court of California in the case of *Gordon v. Cadwalder* intimated that the holder of such an interest would be entitled to compensation.[2] The few cases in which this point has been directly presented take the view that since this kind of an interest in effect amounts to a mere expectancy, it is consequently incapable of valuation and no method of protection may be afforded its holder.[3]

To dismiss in such summary fashion the rights of the contingent remainderman seems hardly consistent with the modern status of such an interest in the law. It is regarded as a valuable

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[1] Cal. Civ. Code, § 826. Alexander v. U. S., 39 Court of Claims, 383; Bridges v. Southern Ry. Co. (1910), 86 S. C. 267, 68 S. E. 551; In re Gilroy (1908), 60 N. Y. Misc. 125, 112 N. Y. Sup. 111.

[2] Gordon v. Cadwalader (March 8, 1916), 51 Cal. Dec. 328, 331, 156 Pac. 471.

[3] Fifer v. Allen (1907), 228 Ill. 507, 81 N. E. 1105 (An executory devise); Chesapeake Ry. Co. v. Bradford (1873), 6 W. Va. 220, 230.